

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JULY 31, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	6
ATTENDANCE DURING THE MEETING	6
ITEM-1: ROLL CALL.....	6
ITEM-10: INVOCATION	7
ITEM-20: PLEDGE OF ALLEGIANCE.....	7
CLOSED SESSION.....	7
ITEM-200: 4134 4 th Avenue Hillcrest Summit Tentative Map, Project No. 76244.....	12
ITEM-201: 4560-4566 35th Street Map Waiver, Project No. 80665	15
ITEM-202: 2350 Third Avenue Tentative Map, Project No. 82295.....	18
ITEM-203: 2005 Grand Avenue Vesting Tentative Map, Project No. 82815	22
ITEM-204: 849-55 ½ Emerald Street, Project No. 83668	25
ITEM-205: 4081 Arizona Street Tentative Map, Project No. 81311.....	28
ITEM-206: 4158 Alabama Street Tentative Map, Project No. 82346	32
ITEM-207: 4054 Illinois Street Tentative Map, Project No. 84341	35
ITEM-208: 1816 Diamond Street Map Waiver, Project No. 84301	38
ITEM-209: 830 Missouri Street Coastal Development Permit/Map Waiver, Project No. 85119	42
ITEM-210: 2625 Highland Avenue, Project No. 85954	45
ITEM-211: 319 W. Hawthorn Street Tentative Map, Project No. 81829.....	49

Minutes of Monday, July 31, 2006
Table of Contents (Continued)

Page 2

ITEM-212:	4514 Cleveland Avenue Tentative Map, Project No. 81831	52
ITEM-213:	1560 Coronado Tentative Map, Project No. 82897	55
ITEM-214:	4631 Kansas Street Tentative Map, Project No. 83546	59
ITEM-215:	835 Thomas Avenue Coastal Development Permit/Tentative Map, Project No. 84312.....	62
ITEM-216:	901 Sapphire Street Coastal Development Permit/Tentative Map, Project No. 84320.....	65
ITEM-217:	1621 La Playa Coastal Development Permit/Tentative Map, Project No. 85333	69
ITEM-218:	867 Beryl Street Coastal Development Permit/Map Waiver, Project No. 85962.	72
ITEM-219:	4303 Mentone Street, Map Waiver, Project No. 86201	76
ITEM-220:	4176 Vermont Street Map Waiver, Project No. 81206.....	79
ITEM-221:	5344 Rex Avenue Tentative Map, Project No. 85769	82
ITEM-222:	5080 Brighton Avenue, Project No. 85967.....	86
ITEM-223:	1051 Hayes Avenue Map Waiver, Project No. 86198.....	89
ITEM-224:	4580 39 th Street Tentative Map, Project No. 86206	92
ITEM-225:	1919 Mission Avenue Tentative Map, Project No. 86852.....	96
ITEM-226:	4751 Terrace Drive Map Waiver, Project No. 80492	99
ITEM-227:	4776 Lamont Street Tentative Map, Project No. 80849	102
ITEM-228:	4020 Kansas Street Tentative Map, Project No. 82766	106
ITEM-229:	4027 Utah Street Tentative Map, Project No. 82773.....	109
ITEM-230:	4202 4 th Avenue Tentative Map, Project No. 86842	112

ITEM-231:	825 Missouri Street Tentative Map/Coastal Development Permit, Project No. 85420.....	116
ITEM-232:	4594 Pescadero Avenue Coastal Development Permit/Map Waiver, Project No. 85767.....	119
ITEM-233:	3751 Bancroft Street Tentative Map, Project No. 86851.....	122
ITEM-234:	3740-46 Alabama Street Tentative Map, Project No. 86857.....	126
ITEM-235:	4625 Kansas Street Tentative Map, Project No. 87003	129
ITEM-236:	4876 Mansfield Map Waiver, Project No. 86855	132
ITEM-237:	4024 Georgia St. Tentative Map, Project No. 89197.....	136
ITEM-238:	1125 Hornblend St. Coastal Development Permit/Tentative Map, Project No. 90149.....	139
ITEM-239:	4522 Utah Street Tentative Map, Project No. 91143.....	142
ITEM-240:	5646 Riley St. Tentative Map, Project No. 86853.....	145
ITEM-241:	6150 El Cajon Boulevard, Tentative Map, Project No. 89813	149
ITEM-242:	4255 Winona Avenue, Tentative Map, Project No. 87147.....	152
ITEM-243:	4742 35 th Street Tentative Map, Project No. 87479	155
ITEM-244:	4133 Florida Street Tentative Map, Project No. 89306.....	159
ITEM-245:	4410 Utah Street Tentative Map, Project No. 91092.....	162
ITEM-246:	4330 43 rd Street Tentative Map, Project No. 90698	165
ITEM-247:	4629 35 th Street Tentative Map, Project No. 91776	169
ITEM-248:	4470 48 th Street Tentative Map, Project No. 91924	172
ITEM-249:	8562 Hurlbut Map Waiver, Project No. 90870.....	175

ITEM-250:	4563 Narragansett Avenue Map Waiver, Project No. 93630	179
ITEM-251:	2404 J Street Tentative Map, Project No. 87368	182
ITEM-252:	4045 33 rd Street Tentative Map, Project No. 93050	185
ITEM-253:	3540 Mission Blvd. Tentative Map, Project No. 93931	189
ITEM-254:	4672 Del Monte Avenue Coastal Development and Map Waiver, Project No. 94010.....	192
ITEM-255:	2660 Mission Boulevard Vesting Tentative Map, Project No. 92959	195
ITEM-256:	4003 Kansas Street, Vesting Tentative Map Project No. 94376.....	199
ITEM-257:	3934 Hamilton Street Tentative Map, Project No. 94494	202
ITEM-258:	5014 Auburn Drive Tentative Map, Project No. 94780.....	205
ITEM-259:	3923 Riviera Drive Coastal Development Permit/Vesting Tentative Map, Project No. 95185.....	209
ITEM-260:	1209 Azusa Street Tentative Map, Project No.94628.....	212
ITEM-261:	4619 W. Point Loma Boulevard Coastal Development Permit/Map Waiver, Project No. 96313	215
ITEM-262:	2220 Calle Frescota Coastal Development Permit/Map Waiver, Project No. 97189	219
ITEM-263:	3684 42 nd Street Tentative Map, Project No. 95616.....	222
ITEM-264:	4838 Market Street Tentative Map, Project No. 96317	226
ITEM-265:	2233 Ulric Street Tentative Map, Project No. 96590	229
ITEM-266:	Cabrillo Palisades – 7901 Harmarsh Street, Project No. 97472	232
ITEM-267:	5411 Santa Margarita Vesting Tentative Map, Project No. 97654.....	236
ITEM-268:	3445 28 th Street Map Waiver, Project No. 97186.....	239

ITEM-269:	4724 30 th Street Vesting Tentative Map, Project No. 97621	242
ITEM-270:	4670 Newport Avenue Map Waiver, Project No. 98099.....	246
ITEM-271:	2147 Brant Street Map Waiver, Project No. 91128.....	249
ITEM-272:	1949 Grand Avenue, Map Waiver, Project No. 96319.....	252
ITEM-273:	3830 Tennyson Map Waiver, Project No. 98100	256
ITEM-274:	835 Felspar Map Waiver, Project No. 98683	259
ITEM-275:	2223 Felspar Street Map Waiver, Project 101703.....	262
ITEM-276:	Establishing the Policy of the City of San Diego to Reorganize the Departments of the City	266
ITEM-277:	Fiscal Year 2007 Tax Rate Ordinance	266
ITEM-S400:	Fiscal Year 2006-2007 Appropriation Ordinance	268
ITEM-S401:	Third Avenue Tentative Map	269
REPORT OUT OF CLOSED SESSION		272
NON-DOCKET ITEMS		272
ADJOURNMENT.....		273

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:09 p.m. The meeting was adjourned by Council President Peters at 4:31 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present
- Clerk-Maland (ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-not present

- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Dr. Timothy J. Winters, Pastor, of the Bayview Baptist Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Young.

FILE LOCATION: MINUTES

CLOSED SESSION:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 *Isbell v. City of San Diego, U.S.D.C.*
United States District Court No. 98CV0688

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

DCA assigned: B. Walters

This matter is an action filed by George Isabell Jr. and G&B Emporia Inc. challenging the City's zoning ordinance for the location of Plaintiffs' adult entertainment business.

The City Attorney will brief the City Council on the status of the matter in closed session and request appropriate action including seeking direction on settlement of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:32 p.m. – 2:32 p.m.)

Council President Peters closed the hearing.

**CS-2 *City of San Diego v. Callan, et al.*
San Diego Superior Court Case No. GIC852419**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

EACA assigned: D. McGrath

Request to approve prior contingent fee arrangement with the Law Firm of Stanford & Associates and for a deposit of money for expert fees.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:32 p.m. – 2:32 p.m.)

Council President Peters closed the hearing.

**CS-3 *City of San Diego v. Orrick Herrington & Sutcliffe, et al.*
SDSC Case No. GIC857632**

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

EACA assigned: D. McGrath

The City Attorney will advise the City Council of the status of this matter and discuss potential settlement with defendant Calderon, Jaham & Osborn.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:32 p.m. – 2:32 p.m.)

Council President Peters closed the hearing.

CS-4 *Aaron et al. v. Michael Aguirre, City of San Diego; et al.*
United States District Court Case No. 06CV1451JM

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

EACA assigned: D. McGrath

This is yet a third law suit filed by police officers against the City Attorney, the City of San Diego and a number of current and former City Council Members and employees. The City Attorney will discuss the substance of this lawsuit in closed session and request retention of outside counsel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

CS-5 *Settlement of Claims on Fire Stations Number 12 and 31 Projects*
Claim No. LP 0601201914

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

DCA assigned: M. Wright-Travis

This matter involves the construction of Fire stations numbers 12 and 31. The contractor filed a Government Code § 910 claim requesting monies for delay and extra work. In closed session the City Attorney will advise the City Council on the status of the matter and seek authority for settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

CS-6 *Howard DeYoung, et al. v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 849647

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

DCA assigned: J. Riley

This matter involves allegations that the City violated a 1984 settlement agreement regarding preferential tee-times at the Torrey Pines Golf Course. In closed session the City Attorney will brief the Council on the status of matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

CS-7 *Marcus R. Abbe, et al. v. City of San Diego, et al.*
United States District Court No. 05 CV 1629

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

EACA assigned: D. McGrath

This matter is a class action filed by numerous police officers alleging violations of the memorandum of understanding with the City of San Diego. In closed session the City Attorney will brief the Council on the status of the matter and request retention of outside counsel in the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

CS-8 *Mia Bonavita v. City of San Diego*
San Diego Superior Court Case No. GIC 852174

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

DCA assigned M. Severson

This matter involves a personal injury to plaintiff on city property. In closed session the City Attorney will give a report to the Council on the recent mediation and seek authority to offer settlement.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-9 Agency negotiator: Scott Chadwick, J. Rod Betts, Lisa Briggs, Rich Snapper, Jessica Falk Michelli William Gersten, Joe Harris, Rick

Employee organizations: Municipal Employees Association, Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Deputy City Attorney Association, AFSCME Local 127

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 1, 2006

DCA assigned: J. Falk Michelli

Discuss with Council the negotiations with all five labor unions (Municipal Employees Association, AFSCME Local 127, Police Officers Association, International Association of Firefighters Local 145, and the Deputy City Attorney's Association) regarding the implementing ordinances for the Mayor's Ballot proposals that would allow for the managed competition of certain City services and also require voter approval for enhancements to employee pension benefits.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:33 p.m.)

Council President Peters closed the hearing.



ITEM-200: 4134 4th Avenue Hillcrest Summit Tentative Map, Project No. 76244.

Owners - Waterford Investment; LLC, Hugh and Mary Maguire, Verona Botte, Louis & Peggy Botte, Carmel & Georgie Botte, and Louis Ball.

(R-2007-140) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301708

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 78 existing residential units to condominiums, located at 4134 4th Avenue.

(See Report to City Council No. 06-098. Uptown Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-201: 4560-4566 35th Street Map Waiver, Project No. 80665.

Owners – Dr. Michael Erickson and Crystal Erickson.

(R-2007-143) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301709

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver to convert 4 existing residential units to condominiums, located at 4560-4566 35th Street, Lot 24, Block 55.

(See Report to City Council No. 06-098. Normal Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J.

Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-202: 2350 Third Avenue Tentative Map, Project No. 82295.

Owners – M.S. Browar Family Trust dated Feb. 9, 1988: Matthew S. & Nancy A. Brower, Trustees.

(R-2007-144) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301710

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion

from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 16 existing residential units to condominiums, located at 2350 Third Avenue.

(See Report to City Council No. 06-098. Uptown Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance

Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal.

Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-203: 2005 Grand Avenue Vesting Tentative Map, Project No. 82815.

Owners – Mazi Properties, L.P.: William G. and Carol Lee Scoortis.

(R-2007-145) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301711

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Vesting Tentative Map to allow the conversion of 9 existing residential units to condominiums, located at 2005 Grand Avenue.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-204: 849-55 ½ Emerald Street, Project No. 83668.

Owner – Allison McGee.

(R-2007-149) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301712

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map to allow the conversion of 7 existing residential units to condominiums, and waiver to waive the requirement to underground existing overhead utilities, located at 849-55 ½ Emerald Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or

- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-205: 4081 Arizona Street Tentative Map, Project No. 81311.

Owners – Oliphant Family Trust: Don Oliphant, Judy Oliphant; Williams Family Trust: Tim Williams, Stacy Williams; Oliphant Grandchildren Trust FBO Stacy Williams: Stacy Williams, Don Oliphant Trustee; and Oliphant Grandchildren Trust FBO Tiffany Silverman: Tiffany Silverman, Don Oliphant Trustee.

(R-2007-152) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301713

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 10 residential units to condominiums, located at 4081 Arizona Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of

San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the

Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-206: 4158 Alabama Street Tentative Map, Project No. 82346.

Owner – Leviathan Partners: Richard Ennis, sole member.

(R-2007-153) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301714

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 residential units to condominiums, located at 4158 Alabama Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-207: 4054 Illinois Street Tentative Map, Project No. 84341.

Owners – 4054 Illinois Street, LLC: Troy D. Smith and Brad L. Shoemaker.

(R-2007-154) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301715

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of eight existing residential units to condominiums and waiver for undergrounding overhead

utilities on a 0.16 acre site, located at 4054 Illinois Street in the MR-1250B Zone of Mid-City Communities Planned District.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a

question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has

been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-208: 1816 Diamond Street Map Waiver, Project No. 84301.

Owners – Robert D. and Lanette C. Hickman.

(R-2007-155) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301716

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver application to waive the requirements of a Tentative Map to convert 4 existing residential units into condominiums, located at 1816 Diamond Street located between Missouri Street and Emerald Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-209: 830 Missouri Street Coastal Development Permit/Map Waiver, Project No. 85119.

Owners – Missouri Holdings, Inc: Ron Fletcher, Rick Jones, Don Liddy and Bill & Carol Frontis.

(R-2007-156) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301717

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver application to waive the requirements of a Tentative Map to convert 4 existing residential units to condominiums. A waiver to waive the requirement to underground existing overhead utilities, located at 830 Missouri Street located between Chalcedony Street and Diamond Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the

CEQA findings of the previous decision-maker, where appropriate; or

- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J.

Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-210: 2625 Highland Avenue, Project No. 85954.

Owner - Eli Cohen.

(R-2007-157) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301718

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no

physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 existing residential units to condominiums on a 0.161-acre site. The site is located at 2625 Highland Avenue, in the RM-1-1 and OR-1-1 Zones.

(See Report to City Council No. 06-098. City Heights neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt

from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of

the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-211: 319 W. Hawthorn Street Tentative Map, Project No. 81829.

Owner: 1805 Columbia Street LLC: Mo Siry, sole member.

(R-2007-158) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301719

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 7 existing residential units to condominiums. A waiver to waive the requirement for undergrounding exiting overhead utilities, located at 319 West Hawthorn Street.

(See Report to City Council No. 06-098. Uptown Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-212: 4514 Cleveland Avenue Tentative Map, Project No. 81831.

Owners – John Alioto, Rose Romani and Salijo Hendershaw; John Alioto and Laura Lee Alioto, Rose Alioto Romani, Salijo Alioto Hendershaw and Santa Ann Alioto 1999 Trust.

(R-2007-159) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301720

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 9 existing residential units to condominiums, located at 4514 Cleveland Avenue.

(See Report to City Council No. 06-098. Uptown Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the

CEQA findings of the previous decision-maker, where appropriate; or

- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J.

Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-213: 1560 Coronado Tentative Map, Project No. 82897.

Owner – Coronado Homes Manor, LLC: Craig White, sole owner.

(R-2007-160) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301721

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no

physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 76 existing residential units to condominiums on a 1.76 acre-site located at 1560 Coronado Avenue in the RM-3-7 Zone within the Otay Mesa Nestor Community Plan, Coastal Height Limitation Overlay Zone.

(See Report to City Council No. 06-098. Otay Mesa-Nestor Community Area. District 8.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California

Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY HUESO TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-214: 4631 Kansas Street Tentative Map, Project No. 83546.

Owners – Richard & Sharon Jones.

(R-2007-161) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301722

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 existing residential units to condominiums on a 0.16 acre-site at 4631 Kansas Street in the MR-1500 Zone of the Mid Cities Community Planned District within the Greater North Park Community Plan Area.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it

should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-215: 835 Thomas Avenue Coastal Development Permit/Tentative Map, Project No. 84312.

Owner: Clarke Trust: Willam G. Clarke and Joanne E. Clarke.

(R-2007-162) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301723

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map to allow the conversion of 11 existing residential units to condominiums, located at 835 Thomas Avenue.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-216: 901 Sapphire Street Coastal Development Permit/Tentative Map, Project No. 84320.

Owners: Clarke Trust dated November 12, 1991: William G. Clarke and Joane E. Clarke.

(R-2007-163) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301724

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map to allow the conversion of 10 existing residential units to condominiums, located at 901 Sapphire Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse

environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The

processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-217: 1621 La Playa Coastal Development Permit/Tentative Map, Project No. 85333.

Owner – Marty McGee.

(R-2007-164) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301725

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map to allow the conversion of 24 existing residential units to condominiums. A waiver to waive the requirement for undergrounding existing overhead utilities, located at 1621 La Playa.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-218: 867 Beryl Street Coastal Development Permit/Map Waiver, Project No. 85962.

Owner – Daniel Lennon.

(R-2007-165) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301726

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver application to waive the requirements of a Tentative Map to convert 2 existing residential units to condominiums, located at 867 Beryl Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area.
District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)
3:16 p.m. – 3:16 p.m.)

Testimony in opposition by Daniel Lennon.

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-219: 4303 Mentone Street, Map Waiver, Project No. 86201.

Owners – Mentone Condos, LLC: Don W. Oliphant, Tiffany Silverman, Ron Kimura, Mark Silverman, Stacy Williams, and Tim Williams.

(R-2007-166) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301727

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 existing residential units to condominiums, located at 4303 Mentone Street.

(See Report to City Council No. 06-098. Peninsula Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-220: 4176 Vermont Street Map Waiver, Project No. 81206.

Owner – Anita R. Kelly

(R-2007-167) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301728

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver application to waive the requirements of a Tentative Map to convert 2 existing residential units to condominiums, located at 4176 Vermont Street.

(See Report to City Council No. 06-098. Uptown Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to

the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-221: 5344 Rex Avenue Tentative Map, Project No. 85769.

Owners - Casa de Las Palmas LLC: John I. Nobel & Mahin Nobel, Trustees of the Nobel Family Trust.

(R-2007-168) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301729

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable

Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 12 existing residential units to condominiums, located at 5344 Rex Avenue.

(See Report to City Council No. 06-098. The site is located in the City Heights neighborhood of the Mid-City Communities Plan Area Mid City Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-222: 5080 Brighton Avenue, Project No. 85967.

Owner – Katrina Barry.

(R-2007-169) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301730

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver application to waive the requirements of a Tentative Map to convert 4 existing residential units to condominiums, located at 5080 Brighton Avenue.

(See Report to City Council No. 06-098. Ocean Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it

should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-223: 1051 Hayes Avenue Map Waiver, Project No. 86198.

Owners – William and Joanne Mckee

(R-2007-170) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301731

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver to allow the conversion of four existing residential units to condominiums, located at 1051 Hayes Avenue.

(See Report to City Council No. 06-098. Uptown Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the

environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-224: 4580 39th Street Tentative Map, Project No. 86206.

Owner – Shirley Segal

(R-2007-171)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301732

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 16 existing residential units to condominiums, located at 4580 39th Street.

(See Report to City Council No. 06-098. The site is located in the Normal Heights neighborhood of the Mid-City Communities Plan Area Mid City Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse

environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The

processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-225: 1919 Mission Avenue Tentative Map, Project No. 86852.

Owner – Hardy Trust: Shirley Segal, sole member.

(R-2007-172) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301733

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 6 existing residential units to condominiums, and a waiver to waive the requirement for undergrounding existing overhead utility lines, located at 1919 Mission Avenue.

(See Report to City Council No. 06-098. Greater North Park Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more

direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-226: 4751 Terrace Drive Map Waiver, Project No. 80492.

Owners - Dan and Joni Ferreira, Trustees of the Ferreira Revocable Living Trust.

(R-2007-173) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301734

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver application to waive the requirements of a Tentative Map to convert 2 existing residential units to condominiums, located at 4751 Terrace Drive.

(See Report to City Council No. 06-098. Kensington-Talmadge Neighborhood of the Mid City Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-227: 4776 Lamont Street Tentative Map, Project No. 80849.

Owners - St. George Manor, L.P.: Kleinbub Family Trust & Pacific Transnet Real Estate: Fredrick Kleinbub, sole member.

(R-2007-174) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301735

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 20 existing residential units to condominiums, located at 4776 Lamont Street.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on

exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The

processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-228: 4020 Kansas Street Tentative Map, Project No. 82766.

Owners - K.C. Trust: Piysh Kumar and Shrilekha Champaneri, Members.

(R-2007-175) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301736

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 8 existing residential units to condominiums, located at 4020 Kansas Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section

112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations

were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-229: 4027 Utah Street Tentative Map, Project No. 82773.

Owners – K.C. Trust: Piysh Kumar and Shrilekha Champaneri, Members.

(R-2007-176) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301737

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 8 existing residential units to condominiums.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the

environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-230: 4202 4th Avenue Tentative Map, Project No. 86842.

Owner – Mike Roark.

(R-2007-177) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301738

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no

physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 30 existing residential units to condominiums. A waiver to waive the requirement for existing overhead utility lines to be undergrounded, located at 4202 4th Avenue.

(See Report to City Council No. 06-098. Uptown Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines.

Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt

from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal.

Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-231: 825 Missouri Street Tentative Map/Coastal Development Permit, Project No. 85420.

Owner – Terrance P. Buckley, Miles Amarino, Harvey Oringer & Spartan Equity, Inc. (Sole owner: Terrance P. Buckley)

(R-2007-178) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301739

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map to convert 8 existing one-bedroom residential apartments to condominiums located on a .1435 acre site with 8 existing parking spaces.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it

should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-232: 4594 Pescadero Avenue Coastal Development Permit/Map Waiver, Project No. 85767.

Owners – John DeRose, and Kathleen Hancock.

(R-2007-179) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301740

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver application to waive the requirements of a Tentative Map to convert 3 existing residential units to condominiums, located at 4594 Pescadero Avenue.

(See Report to City Council No. 06-098. Peninsula Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-233: 3751 Bancroft Street Tentative Map, Project No. 86851.

Owners – Bancroft Village, LLC: Enrique Villarreal Ortega, Abraham Sherman, and Ken Finn.

(R-2007-180)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301741

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 residential units to condominiums, located at 3751 Bancroft Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superseding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the

numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the

Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-234: 3740-46 Alabama Street Tentative Map, Project No. 86857.

Owners – Investments Balboa, LLC: Enrique Villarreal Ortega, Abraham Sherman, and Kern Finn.

(R-2007-181) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301742

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 18 residential units to condominiums, located at 3740-46 Alabama Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section

112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations

were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-235: 4625 Kansas Street Tentative Map, Project No. 87003.

Owner – Robert Boelard.

(R-2007-182) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301743

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 residential units to condominiums, located at 4625 Kansas Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the

environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-236: 4876 Mansfield Map Waiver, Project No. 86855.

Owner - Dana Horne.

(R-2007-183) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301744

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion

from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver to convert 2 existing residential units to condominiums, located at 4876 Mansfield Street.

(See Report to City Council No. 06-098. The site is located in the Normal Heights neighborhood of the Mid-City Communities Plan Area Mid City Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines.

Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-237: 4024 Georgia St. Tentative Map, Project No. 89197.

Owners - Southern Seven, LLC: Steven Worley and Patsy Worley.

(R-2007-184) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301745

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map application to allow the conversion of 7 existing residential units to condominiums, and a waiver to waive the undergrounding of overhead utilities, located at 4024 Georgia Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-238: 1125 Hornblend St. Coastal Development Permit/Tentative Map, Project No. 90149.

Owners - Terrace Ouest, LLC: Mary Elizabeth LeFriant, Jacque L. LeFriant, and Christopher D. LeFriant.

(R-2007-185) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301746

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Tentative Map application to allow the conversion of 11 existing residential units to condominiums, located at 1125 Hornblend Street.

(See Report to City Council No. 06-098. Pacific Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or

CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-239: 4522 Utah Street Tentative Map, Project No. 91143.

Owners - Cheshire Holdings: Irene and John Stein Partners.

(R-2007-186) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301747

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no

physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 8 residential units to condominiums, located at 4522 Utah Street.

(See Report to City Council No. 06-098. Great North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines.

Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt

from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal.

Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-240: 5646 Riley St. Tentative Map, Project No. 86853.

Owners - Jerome Nava and Christine Nava.

(R-2007-187) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301748

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 5 existing residential units to condominiums, and a waiver to waive the requirements of undergrounding overhead utilities on a 0.115 acre site, located at 5646 Riley Street.

(See Report to City Council No. 06-098. Linda Vista Community Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-241: 6150 El Cajon Boulevard, Tentative Map, Project No. 89813.

Owner(s) – HCA Plaza LTD.: Al Assad, Jr., General Partner

(R-2007-188) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301749

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 105 residential units to condominiums, and create 6 commercial condominiums on a 1.932 acre site, located at 6150 El Cajon Boulevard.

(See Report to City Council No. 06-098. College Community Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-242: 4255 Winona Avenue, Tentative Map, Project No. 87147.

Owner – MJX Properties, Inc.: Melvin John Haste, sole shareholder.

(R-2007-189) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301750

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map application to allow the conversion of 7 existing residential units to condominiums, located at 4255 Winona Avenue.

(See Report to City Council No. 06-098. City Heights Neighborhood of the Mid-City Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345

Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-243: 4742 35th Street Tentative Map, Project No. 87479.

Owners – Dakota Kids, LLC: Linda K. Dunham, Judy Dunham, Ronald L. Dunham and Doreen Dunham

(R-2007-190) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301751

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 14 residential units to condominiums, located at 4742 35th Street.

(See Report to City Council No. 06-098. Normal Heights Neighborhood of the Mid City Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines.

Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out

to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-244: 4133 Florida Street Tentative Map, Project No. 89306.

Owners: Robert D. and Margaret B. Bills 1993 Family Trusts: Robert D. Bills and Margaret B. Bills.

(R-2007-191) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301752

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 residential units to condominiums, located at 4133 Florida Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section

112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations

were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-245: 4410 Utah Street Tentative Map, Project No. 91092.

Owners - 4368 Ohio L.P.: Isaac Achalel and Mauricio Edwade, Members.

(R-2007-192) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301753

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes an application to convert 8 existing residential units to condominiums and undergrounding overhead utilities waiver on a 0.16-acre site, located at 4410 Utah Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-246: 4330 43rd Street Tentative Map, Project No. 90698.

Owner - Eleni Koros

(R-2007-193)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301754

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 8 residential units to condominiums, located at 4330 43rd Street.

(See Report to City Council No. 06-098. Kensington-Talmadge Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of

San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the

Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-247: 4629 35th Street Tentative Map, Project No. 91776.

Owners - Justin Beope.

(R-2007-194) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301755

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes Tentative Map to convert 7 residential units to condominiums, located at 4629 35th Street.

(See Report to City Council No. 06-098. Normal Heights Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section

112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations

were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-248: 4470 48th Street Tentative Map, Project No. 91924.

Owners - Jack and Alice Lambert.

(R-2007-195) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301756

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes an application to convert 6 existing residential units to condominiums and undergrounding overhead utilities waiver on a 0.143-acre site, located at 4470 48th Street.

(See Report to City Council No. 06-098. Kensington-Talmadge Neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-249: 8562 Hurlbut Map Waiver, Project No. 90870.

Owners - Edgar Millsberg and Nelson Millsberg.

(R-2007-196)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301757

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver to waive the requirements of a Tentative Map to convert 4 existing residential units to condominiums on a 0.161-acre site. The property is located at 8562 Hurlbut Street in the RM-3-7 Zone within the Serra Mesa Community Plan area, located at 8562 Hurlbut Street.

(See Report to City Council No. 06-098. Serra Mesa Community Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on

exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The

processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-250: 4563 Narragansett Avenue Map Waiver, Project No. 93630.

Owner - Jeanne M. Bellezzo.

(R-2007-197) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301758

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit and Map Waiver to waive the requirement for a tentative map to convert two existing residential units to condominiums. Included is a Waiver from the requirement to underground the existing overhead utilities, located at 4563 Narragansett Avenue.

(See Report to City Council No. 06-098. Peninsula Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-251: 2404 J Street Tentative Map, Project No. 87368.

Owner – George Woo.

(R-2007-198) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301759

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to allow the conversion of 11 existing residential units to condominium units and undergrounding overhead utilities waiver on a 0.289 acre site, located at 2404 J Street in the MF-3000 Zone of

Southeastern San Diego Planned District within the Southeastern SD Community Plan.

(See Report to City Council No. 06-098. Southeastern San Diego Community Area. District 8.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a

question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY HUESO TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



[ITEM-252:](#) 4045 33rd Street Tentative Map, Project No. 93050.

Owners - Jeffrey and Marsha Lewis 2002 Trust: Jeffrey L. Lewis and Marsha J. Lewis.

(R-2007-199) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301760

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 10 residential units to condominiums, located at 4045 33rd Street.

(See Report to City Council No. 06-098. The site is located in the City Heights neighborhood of the Mid-City Communities Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on

exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out

to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-253: 3540 Mission Blvd. Tentative Map, Project No. 93931.

Owners – Richard Uy & Josephine Jennifer Flores-Uy.

(R-2007-200) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301761

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 8 existing residential units to condominiums, and a waiver to waive the undergrounding of overhead utilities, located at 3540 Mission Boulevard.

(See Report to City Council No. 06-098. Mission Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument.

The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-254: 4672 Del Monte Avenue Coastal Development and Map Waiver, Project No. 94010.

Owner(s) – Olivas Family Trust: Kristi C. and Victor R. Olivas.

(R-2007-201) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301762

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes to allow the conversion of 2 existing residential units to condominiums, located at 4672 Del Monte Avenue.

(See Report to City Council No. 06-098. Ocean Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-255: 2660 Mission Boulevard Vesting Tentative Map, Project No. 92959.

Owner(s) – Gerald M. Sylvain and Michael Monroe.

(R-2007-202) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301763

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Vesting Tentative Map to convert 8 existing residential units to condominiums on a 0.102 acre site, located at 2660 Mission Boulevard.

(See Report to City Council No. 06-098. Mission Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines.

Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-256: 4003 Kansas Street, Vesting Tentative Map Project No. 94376.

Owner - Avocet Properties, LLC: David Gray and Mark Clausen.

(R-2007-203) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301764

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Vesting Tentative Map (VTM) to convert 6 existing residential units to condominiums on a 0.24 acre site, located at 4003 Kansas Street.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-257: 3934 Hamilton Street Tentative Map, Project No. 94494.

Owners - Charles & Ilene Mittman.

(R-2007-204) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301765

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert seven existing residential units to condominiums, and a waiver to waive the undergrounding of existing overhead utilities, located at 3934 Hamilton Street.

(See Report to City Council No. 06-098. Mid City Communities Planned District within the Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-258: 5014 Auburn Drive Tentative Map, Project No. 94780.

Owner - Steve Whitehead.

(R-2007-205)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301766

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 12 residential units to condominiums, located at 5014 Auburn Drive.

(See Report to City Council No. 06-098. City Heights Neighborhood of the Mid City Community Plan Area. District 7.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the

numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account

established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-259: 3923 Riviera Drive Coastal Development Permit/Vesting Tentative Map, Project No. 95185.

Owner - DDI Investments, LLC: Diane G. Faults.

(R-2007-206) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301767

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Vesting Tentative Map to convert three existing residential units to condominiums, and a waiver to waive the requirements for the undergrounding of existing overhead utilities, located at 3923 Riviera Drive.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-260: 1209 Azusa Street Tentative Map, Project No.94628.

Owners - Riley Azusa, LLC: Michael Cutchin, General Partner.

(R-2007-207) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301768

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 8 existing residential units to condominiums on a 0.20 acre site, located at 1209 Azusa Street.

(See Report to City Council No. 06-098. Linda Vista Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-261: 4619 W. Point Loma Boulevard Coastal Development Permit/Map Waiver, Project No. 96313.

Owner - Kirsten Keithly.

(R-2007-208) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301769

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver to waive the requirements of a Tentative Map to convert two existing residential units to condominiums, and a waiver to waive the undergrounding of existing overhead utilities on a 0.086 acre site, located at 4619 West Point Loma Boulevard.

(See Report to City Council No. 06-098. Ocean Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act

(CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-262: 2220 Calle Frescota Coastal Development Permit/Map Waiver, Project No. 97189.

Owner - Sandpatch, LLC: James M. Thomas.

(R-2007-209) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301770

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit/Map Waiver to waive the requirements of a Tentative Map to convert 2 existing residential units to condominiums on a 6,890 square-foot site, located at 2220 Calle Frescota.

(See Report to City Council No. 06-098. La Jolla Shores Planned District within the La Jolla Community Plan Area. District 1.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)
3:22 p.m. – 3:23 p.m.)

Testimony in opposition by James Thomas.

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FRYE TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-263: 3684 42nd Street Tentative Map, Project No. 95616.

Owner – Mohammad Emami

(R-2007-210) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301771

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 7 existing residential units to condominiums and undergrounding overhead utilities on a 5,259 square-foot site at 3684 42nd Street in the RS-1-7 Zone of the Central Urbanized Planned District within the City Heights Neighborhood of Mid City Communities Plan Area, located at 3684 42nd Street.

(See Report to City Council No. 06-098. City Heights Neighborhood of the Mid City Community Plan Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt

from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of

the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-264: 4838 Market Street Tentative Map, Project No. 96317.

Owner – 4838 Market Street Property LLC: Shahram Assef, member.

(R-2007-211) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301772

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map (TM) to convert 7 existing residential units to condominiums and undergrounding overhead utilities waiver on a 0.188 acre site, located at 4838 Market Street.

(See Report to City Council No. 06-098. Encanto Neighborhood of Southeastern Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY YOUNG TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-265: 2233 Ulric Street Tentative Map, Project No. 96590.

Owners – Michael and Vivian K. Contreras.

(R-2007-212) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301773

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 142 residential units to condominiums, located at 2233 Ulric Street.

(See Report to City Council No. 06-098. Linda Vista Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to

the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-266: Cabrillo Palisades – 7901 Harmarsh Street, Project No. 97472.

Owners – Universe at Cabrillo Palisades, LLC: Lisa Manoucheri, Henry Manoucheri, Said Manoucheri, Shlomo Goldberg, and David Zargari

(R-2007-213) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301774

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion

from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Tentative Map to convert 369 existing residential units to condominiums on a 17.06-acre site. Project site is located at 7901 Harmarsh Street within the RN-3-7 zone. (Lots 1, 2, 3, and 4 of Cabrillo Palisades Unit No. 1, Map No. 3971; Lots 5, 6, and 7 of Cabrillo Palisades, Unit No. 2, Map No. 4180).

(See Report to City Council No. 06-098. Serra Mesa Community Plan Area. District 6.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY MADAFFER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-267: 5411 Santa Margarita Vesting Tentative Map, Project No. 97654.

Owners – Vista Grand Apartments, L.P.: Michael J. Davies, Steve Billings, Christopher D. Sickels, Donald T. Dinsmore, Clarence J. Ferrari, Jr., and John G. Davies.

(R-2007-214) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301775

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Vesting Tentative Map (VTM) to convert 47 existing residential units to condominiums and undergrounding overhead utilities waiver on a 2.44 acre site, located at 5411 Santa Margarita.

(See Report to City Council No. 06-098. Encanto Neighborhood of Southeastern Community Plan Area. District 4.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it

should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY YOUNG TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-268: 3445 28th Street Map Waiver, Project No. 97186.

Owner – Leona Hoffert.

(R-2007-215) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301776

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver application to waive the requirements of a Tentative Map and undergrounding overhead utilities to convert 2 existing residential units to condominiums on a 0.109-acre site, located at 3445 28th Street, in the RS-1-7 Zone.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the

projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-269: 4724 30th Street Vesting Tentative Map, Project No. 97621.

Owner - Richard Mansur Trust: Richard Mansur.

(R-2007-216) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301777

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of

this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes vesting Tentative Map to convert seven existing residential units to condominiums and waiver for undergrounding overhead utilities, located at 4724 30th Street, between Adams Avenue and Suncrest Drive, within the Greater North Park Community Planning Area. Legal Description: Lots 15 and 16, Block I, University Heights Map 951.

(See Report to City Council No. 06-098. Greater North Park Community Area. District 3.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the

numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account

established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY ATKINS TO DENY THE APPEAL, UPHOLD THE
ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-270: 4670 Newport Avenue Map Waiver, Project No. 98099.

Owners - Diane E. Farrell and Jennifer T. Frasca.

(R-2007-217) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301778

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit and Map Waiver to waive the requirements of a Tentative Map and Undergrounding Overhead Utilities to convert two existing residential units to condominiums, located at 4670 Newport Avenue.

(See Report to City Council No. 06-098. Ocean Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or

- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the

purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-271: 2147 Brant Street Map Waiver, Project No. 91128.

Owner(s) - Foxfins, Inc: Stephen P. Oggel, Sole Member.

(R-2007-218) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301779

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes to allow the conversion of 4 existing residential units to condominiums on a 0.12-acre site, located at 2147 Brant Street.

(See Report to City Council No. 06-098. Uptown Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong.

The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-272: 1949 Grand Avenue, Map Waiver, Project No. 96319.

Owner – MET, Inc.: Michael E. Turk.

(R-2007-219) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301780

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of

this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Coastal Development Permit and Map Waiver application to waive the requirements of a Tentative Map and to underground overhead utilities in order to convert two existing residential units into condominiums and create two commercial condominium units on a 0.143 acre site, located at 1949 Grand Avenue, in the CN-1-2 Zone.

(See Report to City Council No. 06-098. Pacific Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the

numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account

established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:
Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-273: 3830 Tennyson Map Waiver, Project No. 98100.

Owners – Kirsten & Geoff Rael.

(R-2007-220) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301781

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes a Map Waiver to waive the requirements of a Tentative Map and undergrounding overhead utilities to convert two existing residential units to condominiums, located at 3830 Tennyson.

(See Report to City Council No. 06-098. Peninsula Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section

112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong.

The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about

condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-274: 835 Felspar Map Waiver, Project No. 98683.

Owner(s) – Felspar IV, LLC: Michael Marinkovich and Casimir Stidman.

(R-2007-221) DENIED APPEAL, ADOPTED AS
RESOLUTION R-301782

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes Coastal Development Permit and Map Waiver to waive the requirements of a Tentative Map to convert a four-unit residential apartment structure (currently under construction) to four residential condominium units, and waiver from the requirement to underground existing overhead utilities, located at 835 Felspar Street.

(See Report to City Council No. 06-098. Pacific Beach Community Plan Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong. The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing."

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City's CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant.

The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-275: 2223 Felspar Street Map Waiver, Project 101703.

Owner(s) – Armstrong Custom Homes, LLC: Thomas Armstrong.

(R-2007-222)

DENIED APPEAL, ADOPTED AS
RESOLUTION R-301783

This is an appeal of the environmental determination that the above referenced project is exempt from CEQA under CEQA Guideline section 15301. Appeal of this environmental determination was filed by Citizens for Responsible Equitable Environmental Development c/o Cory J. Briggs, Briggs Law Corporation, concerning the determinations by City staff that the project ownership conversion from apartment dwelling units to condominium ownership (when there are no physical changes which are not otherwise exempt) are exempt from the California Environmental Quality Act (CEQA) for the project.

The project proposes to allow the conversion of 4 existing residential units to condominiums, located at 2223 Felspar Street, San Diego, California, Lots 7 and 8, Block 208, Pacific Beach, City and County of San Diego.

(See Report to City Council No. 06-098. Pacific Beach Community Area. District 2.)

According to the San Diego Municipal Code Section 112.0520, the City Council shall consider the appeal and shall, by a majority vote:

- 1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings of the previous decision-maker, where appropriate; or
- 2) Grant the appeal and make a superceding *environmental determination* or CEQA findings; or
- 3) Grant the appeal, set aside the *environmental determination*, and remand the matter to the previous decision-maker, in accordance with Section 112.0520, to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.

STAFF SUPPORTING INFORMATION:

Denial of the appeals would allow the applicants to continue processing their Tentative Map and Map Waiver requests through the discretionary hearing process.

Basis for Appeal: The appellant's form-letter appeal generally states: "The determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA) is wrong.

The project does not qualify for exemption under the CEQA Guidelines. Furthermore, the

project does not qualify for exemption under the CEQA Guidelines based on exceptions to exemption arising from the cumulative and other potentially significant adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing.”

Staff Response: Staff conducted the initial reviews of the proposed Tentative Maps in accordance with the process set forth in Sections 15060 and 15061 of the California Environmental Quality Act (CEQA) Guidelines and determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines, and using the City’s CEQA Significance Thresholds. Several issues were considered during the reviews, including traffic, parking, and visual quality. Physical impacts related to the loss of affordable housing was also raised as a question to be considered by the department in the evaluation of all of the discretionary condominium conversions.

To date, no substantial evidence has been identified by or presented to staff that would support a fair argument that these particular condominium conversions could result in significant physical impacts on the environment, either singly or cumulatively. Staff therefore determined that the projects would not result in a direct or reasonably foreseeable indirect physical change in the environment. City of San Diego staff has determined that the projects are exempt from CEQA pursuant to State CEQA Guidelines Section 15301(k), and these determinations were appealed to the City Council by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. The individual dates of environmental determinations and appeals are listed in the table in Attachment 1.

Staff agrees that limited availability of affordable housing in the City of San Diego is an issue of concern. However, the concerns with condominium conversions are policy issues within the purview of City Council. Revisions to appropriate policies and regulations are a better and more direct way to address the concerns raised by the Land Use and Housing Committee about condominium conversions. Significant revisions to the Condominium Conversion regulations were unanimously approved by the City Council on January 24, 2006 and June 13, 2006. While staff did evaluate the potential for physical impacts related to condominium conversions, it should be noted that the burden of proving that a categorical exemption has been inappropriately applied is on the appellant. The appellant has not proved his argument. The subject projects do not include any physical changes in the environment that would not otherwise be exempt, or any intensification of use. There is no evidence that any growth inducement or cumulative impacts would result.

FISCAL CONSIDERATIONS:

Due to the volume of appeals for this general single-issue, staff has consolidated the format in this one appeal request. However, also due to this volume, it is inefficient to spread the costs out to each individual deposit account, and staff has been processing this as an overhead item. The

processing of each individual project to a decision, however, will be charged to a deposit account established by the applicant. Should the City Council remand the matter back to the Development Services Department, or direct a Program Environmental Impact Report be prepared, significant unreimbursed costs would be incurred.

PREVIOUS COUNCIL/COMMITTEE ACTION: These same appeals, and four additional, were scheduled before the City Council on June 13, 2006, but due to a noticing error, only one of the appeals was heard. The City Council concurred with staff and denied the appellant's appeal. Since that time, two of the appeals have been withdrawn by the appellant and one project has been withdrawn by the applicant. The remaining 76 appeals have been correctly noticed for this July 31, 2006, hearing.

Planning Commission Decision: The Planning Commission has not acted on this issue of the appeals of the environmental determinations of exemption for condominium conversions.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The issue of the appeal of the environmental determination has not been presented to community planning groups.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Please reference the attached spreadsheet for property owners. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Halbert/Waring

Staff: Eileen Lower - (619) 446-5345
Karen Heumann - Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:52 p.m. – 4:30 p.m.)

Testimony in favor by Lori Saldana, Cory Briggs, Theresa Quiroz, Don Kitchen and Ann Menasche.

MOTION BY FAULCONER TO DENY THE APPEAL, UPHOLD THE ENVIRONMENTAL DETERMINATION AND ADOPT THE CALIFORNIA

ENVIRONMENTAL QUALITY ACT FINDINGS OF THE PREVIOUS DECISION-MAKER, WHERE APPROPRIATE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-276: Establishing the Policy of the City of San Diego to Reorganize the Departments of the City.

(See Report to the City Council No. 06-094.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 7/17/2006, Item S400. (Council voted 8-0):

(O-2007-10 Rev. 2) INTRODUCED AND ADOPTED AS
O-19523 (New Series)

Establishing the policy of the City of San Diego to reorganize the departments of the City in order to improve the level of services to the citizens of the City and reduce the cost of providing such services.

NOTE: 6 votes required.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:13 p.m. – 2:26 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-277: Fiscal Year 2007 Tax Rate Ordinance.

(See Report to the City Council No. 06-105.)

STAFF'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2007-17) INTRODUCED AND ADOPTED
AS ORDINANCE O-19524 (New Series)

Introduction and adoption of an Ordinance fixing a rate of taxation of six hundred twenty-four hundred-thousandths (0.00624%), comprised of a tax rate of 0.00500% for the Zoological Exhibits and a tax rate of 0.00124% for the Public Safety Communications Bonds, on each one hundred dollars' valuation of taxable property (full value) within the City of San Diego for the Fiscal Year 2006-2007 and that the rate is hereby levied on all taxable property, both real and personal, in the City of San Diego, pursuant to the provisions of Section 75 of the Charter of the City of San Diego, Article XIII A of the State Constitution and the state legislation adopted pursuant thereto. Included herein is the amount required to be levied by Section 77a of said Charter;

Establishing an allowance of three and one-half percent (3.5%) for anticipated delinquencies in tax payments upon real property and improvements thereon and personal property secured, other than properties of public utilities;

The rate is computed as follows:

TAX REQUIREMENTS FOR 2006-2007 BUDGET

Fund Name (Number)	Fiscal Year 2006 - 2007 Expenditures	Less Fund Balance Available For FY2007 Budget	Less Delinquent Taxes and Intangibles	Less Unsecured	Total Tax for Secured Tax Levy	Secured Tax Rate on Each \$100 of Assessed Valuation
Zoological Exhibits Fund (10222)	\$8,423,463	\$1,227,843	\$223,000	\$340,511	\$6,632,109	(a) 0.00500%
General Obligation Public Safety						

Communications Bond Interest & Redemption Fund (21640)	\$2,329,935	\$310,346	\$118,000	\$106,362	\$1,795,227	0.00124%
TOTAL	\$10,753,398	\$1,538,189	\$341,000	\$446,873	\$8,427,336	0.00624%

- (a) Section 77a of the City Charter requires a two-cent tax levy on each one hundred dollars (\$100.00) of assessed valuation. Subsequent to the adoption of Charter Section 77a, Section 135 of the California Revenue and Taxation Code changed the definition of assessed valuation to "full value" where it had previously been 25 percent of "full value." Pursuant to Section 135(d) of the California Revenue and Taxation Code a conversion factor of one-fourth (1/4) is applied to the tax rate for purposes of translating the Charter Section 77a tax rates to the new definition. This rate will be applied to taxable property assessed at full value (100%) for Fiscal Year 2006-2007.

Declaring the taxes hereby levied shall be due and payable and shall be collected at the same time and in the same manner as State and County taxes in the County of San Diego.

Staff: Susan Graham - (619) 533-6378
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:13 p.m.)

MOTION BY HUESO TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-S400: Fiscal Year 2006-2007 Appropriation Ordinance.

(See Report to the City Council No. 06-091, Independent Budget Analyst Reports IBA-06-30 and IBA-06-32, and memorandum 06-10 from Andrea Tevlin dated 6/12/2006.)

(Continued from the meeting of July 25, 2006, Item 343, at the request of Councilmember Faulconer, for further review.)

NOTE: Hearing open. No testimony taken on July 25, 2006.

TODAY'S ACTION IS:

Introduce and adopt the following ordinance:

(O-2007-13) INTRODUCED AND ADOPTED AS
ORDINANCE O-19522 (New Series)

Introduction an adoption of an Ordinance adopting the Annual Budget for the Fiscal Year 2006-2007 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year.

NOTE: This item is not subject to Mayor's veto.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 6/28/2006, Budget voted 5 to 0 to affirm Charter Section 26 as basis of Council's intent in crafting the Appropriation Ordinance. (Councilmembers Peters, Atkins, Young, Frye and Madaffer voted yea.)

NOTE: Today's action is the second public hearing and introduction and adoption of the Ordinance. See item 200 on the docket of Monday, July 17, 2006, for the first public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:26 p.m. – 2:32 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-S401: Third Avenue Tentative Map.

Matter of approving, conditionally approving, modifying or denying an application for Tentative Map (TM) to convert five (5) existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, and a public right-of-way vacation for the undeveloped portion of Third Avenue located between Redwood Street and Quince Street. The

0.32-acre site is located at 3065 Third Avenue, on the east side of Third Avenue between Redwood Street and Quince Street, in the RS-1-1 zone in the Uptown Community Plan.

(Uptown Community Plan Area. District 2.)

(Continued from the meeting of July 25, 2006, Item 342, at the request of Councilmember Faulconer, for further review.)

NOTE: Hearing open. No public testimony taken on July 25, 2006.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-1143) ADOPTED AS RESOLUTION R-301784

Adoption of a resolution that Tentative Map No. 143420 and waiver of the requirement to underground existing overhead utilities are granted to Stone Meadows, LLC, Applicant and Ingenuity, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-B: (R-2006-1144) ADOPTED AS RESOLUTION R-301785

Adoption of a resolution vacating a portion of the undeveloped Third Avenue right-of-way, located between Redwood Street and Quince Street, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20347-B, marked as Exhibit "B," and on file in the office of the City Clerk, which are by this reference incorporated herein and made a part hereof, is ordered vacated, reserving therefrom an easement for general utility and emergency access together with ingress and egress for that purpose;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder;

That this activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; thus, the activity is not subject to CEQA pursuant to Section 15060(c)(2) of the State CEQA Guidelines.

OTHER RECOMMENDATIONS:

Planning Commission on January 26, 2006, voted 5-1 to approve, no opposition.

Ayes: Ontai, Steele, Chase, Otsuji, Schultz

Nays: Griswold

Not Present: Garcia

The Uptown Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

As described in the attached Planning Commission Report, approval of this project would allow the conversion of five existing residential units to condominiums and a vacation of the undeveloped portion of the Third Avenue right-of-way which runs adjacent and to the south of the project site. The vacation would allow the project's parking area, which is located in the portion of undeveloped right-of-way adjacent to the project site, to return to private ownership. Additionally, the vacation would allow the portion of the undeveloped right-of-way located south of the project site to return to open space and be added to the existing City-owned open space parcel located in the adjacent canyon.

On January 26, 2006, the Planning Commission voted 5-1 to recommend approval of the project, with Commissioners Shultz, Steele, Otsuji, Chase and Ontai voting in favor of the project, and Commissioner Griswold voting in opposition to the project. Commissioner Garcia was not present. The Planning Commission did express a concern that the building improvements proposed by the applicant may serve to degrade the historical integrity of the building. The applicants acknowledged that some of the renderings were conceptual and that they would work with City Historic Resource staff to ensure that any proposed improvements maintain the historic integrity of the building. City staff also clarified that a historic review of the improvements would be triggered when the applicant formally submits for a building permit. A valid appeal of the environmental exemption determination has not been filed on this project.

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

None. All costs associated with processing this project are paid by the applicant through a deposit account.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On November 2, 2004, the Uptown Community Planning Group voted 14-0-1 to recommend approval of the project with their five standard condominium conversion conditions, which are described in detail in the attached Planning Commission Report.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The property owner is Stone Meadows, LLC. The applicant's engineer is Ingenuity. Other key stakeholders include the property tenants.

Halbert/Waring/PG

Staff: Paul Godwin – (619) 446-5103
Peter Mesich – Deputy City Attorney

NOTE: This item is not subject to Mayor's veto.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:51 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

(Awaiting Closed Session Report from City Attorney.)

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:12 p.m. – 2:12 p.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:31 p.m..

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:31 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego